

SENATE BILL 1074
By Ketron

AN ACT to amend Tennessee Code Annotated, Title 53
and Title 68, relative to food manager certification.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 14, Part 3, is amended by
adding the following as a new section:

68-14-328.

(a) As used in this section the definitions in this part and the following shall
apply:

(1) "Food service" means the preparation of food for individual portion
service at a food service establishment regulated by the department under this
part, regardless of whether it is intended for consumption on or off the premises.

(2) "Food service establishment operation" means the manufacturing,
processing, packing, holding or preparing of food or selling food at wholesale or
retail at a food service establishment regulated by the department under this part.
For purposes of this section, "food service establishment operation" includes
food service activities. This term does not include specialized activities within a
food service establishment such as operation of eye care, pharmacy or film
processing centers, nor does it include cashier, clerical, stocking or management
functions which do not involve the stocking, holding or serving of food.

(3) "Food manager" means a person responsible for all aspects of food
service establishment operation at a food service establishment regulated by the
department under this part.

(4) "Qualified psychometrician" means a person with at least one (1) year of professional experience in examination development or testing research and at least a bachelor's degree, which includes two (2) courses each in testing (measurement) theory and statistics, from a college or university accredited by an accrediting agency recognized by the United States department of education.

(b) Each food manager shall possess knowledge of food protection and food safety principles and practices as demonstrated by passing a written examination acceptable to the department. Each food manager passing an acceptable examination shall receive a certificate valid for a period of five (5) years from the date of issuance.

(c) Food service establishments shall designate in writing its food manager or managers. The designation shall be posted in a conspicuous place within the food service establishment. The following types of food service establishments are not required to designate a certified food manager:

(1) Food service establishments that are not required to obtain a food permit in accordance with this part;

(2) Food service establishments that store, sell, or store and sell only pre-packaged, non-potentially hazardous foods that arrive at the food service establishment in a pre-packaged state and that are not opened or otherwise further processed by the food service establishment;

(3) Food service establishments that only process seafood and that are in full compliance with the other applicable law.

(d) All food service establishments that are required to designate a certified food manager and that have four (4) or more employees present at the same time engaged in food service establishment operations, shall have at least one (1) certified food manager present in the food service establishment during all phases of food service establishment

operation. The food manager shall be responsible for and shall actively oversee all food service establishment operations. Food service establishments with fewer than four (4) employees engaged in food service establishment operation, present at the same time, shall have a certified food manager responsible for all phases of food service establishment operation who shall actively oversee all food service establishment operations; however, the certified food manager need not be on the premises at all times.

(e) A food service establishment shall have ninety (90) days from the effective date of this section to have a certified food manager responsible for all food service establishment operations in accordance with the provisions of this chapter. In the event the certified food manager leaves the employment of the food service establishment or is relieved of food management responsibilities, the food service establishment shall have ninety (90) days from the date of the employment change to have a certified food manager.

(f) The food manager certification examination shall be designed to assess the food manager's knowledge of basic food protection and food safety requirements as set forth in this chapter.

(g) Persons licensed as dietitians or nutritionists pursuant title 63, chapter 25, shall be considered certified as food managers under this section.

(h) Any test for certifying food managers must be established as set forth in this subsection. A written evaluation must be submitted to the department by a qualified psychometrician utilizing the following criteria: administrative independence, fairness, adherence to technical standards for test construction and evaluation, validity, reliability, measurement errors, test development and revision, scaling, norming, and score comparability and equating. Additional factors and criteria to be considered are: test

publication, test administration, scoring and reporting of scores, information made available to the public, protection of the rights of persons taking the test, adherence to professional standards for test use for employment testing and professional and occupational certification, and adherence to related standards for testing linguistic minorities and handicapped persons.

(i)

(1) Training and testing programs sponsored by persons, corporations or industry associations which meet the provisions of this chapter, and which are approved by the department, may be used to meet certification requirements of this section.

(2) Persons, corporations or industry associations desiring department recognition of a privately sponsored training and testing program must provide to the department for review and approval the documentation required by subdivision (h) above.

(j) Any person performing required inspections of permitted food service establishments for the department or its agent must:

(1) be standardized in accordance with the procedures of the federal Food and Drug Administration stated in Interim Document 10/1/96--9/30/97 -- Procedure for the Confirmation and Standardization and for the Certification of Retail Food Protection Program Personnel, published by the Food and Drug Administration;

(2) pass the department's food manager certification examination; and

(3) pass a written examination to demonstrate knowledge of statutes and rules which regulate food service establishments.

SECTION 2. This act shall take effect January 1, 2006, the public welfare requiring it.

